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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,826	10/23/2003	Barry Askinasi	03330/100J117-US1	1486
7278	7590	07/13/2005	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			CHIN, PAUL T	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/693,826

Applicant(s)

ASKINASI, BARRY

Examiner

PAUL T. CHIN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 and 6 is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's amendment filed April 26, 2005, and the arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. A non-final office action follows as below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1,3, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Anscher (5,507,076).

Anscher (5,507,076) discloses a device or a frame assembly (see Exhibit A) comprising:

an upper end of said frame and a lower end of said frame;

said lower end of said frame; the frame including an outer frame member (11) having at least one upper portion and at least one lower portion;

at least one prong (16) integrally formed or disposed on said at least one lower portion;

at least one prong-receiving opening (4) disposed on said at least one upper portion opposite said prong;

the frame further including an inner frame member (9) having at least one upper section and at least one lower section;

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at least one prong (23) integrally formed or disposed on said at least one lower section; and at least one prong receiving opening (27) disposed on said at least one lower section. Note that applicant does not clearly define the structural element of the "refuse retrieval means" and it is pointed out that the lower end of the frame is being attached a strap and the device is capable of being tied or attached to a collection bag or a paper, which can be considered as a refuse retrieval means.

4. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Meyrat et al. (6,530,133).

Meyrat et al. (6,530,133) discloses a device or a frame assembly (see Exhibit B) comprising:

an upper end of said frame and a lower end of said frame;

the frame including an outer frame member (22,38) (see Exhibit B) having at least one upper portion and at least one lower portion;

at least one prong (36) integrally formed or disposed on said at least one lower portion and another prong (50) integrally formed or disposed on said at least one upper portion; at least one prong-receiving opening (34) disposed on said at least one upper portion opposite said prong;

the frame further including an inner frame member (see Exhibit B) having at least one upper section and at least one lower section;

at least one prong (12) integrally formed or disposed on said at least one lower section; and at least one prong receiving opening (32) disposed on said at least one upper section. Note that applicant does not clearly define the structural element of the "refuse retrieval means" and it is pointed out that the lower end of the frame is being attached a

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strap and the device is capable of being tied or attached to a collection bag or a paper, which can be considered as a refuse retrieval means

Re claim 2, at least one prong (36) is disposed on at least one lower portion of the outer frame (2) and at least one prong (26) is disposed on the upper section of the inner frame.

Response to Arguments

5. Applicant's amendment filed April 26, 2005, and the arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

6. Claims 5 and 6 are allowed.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (571) 272-6922. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Paul T. Chin", with a stylized flourish at the end.

PAUL T. CHIN
Examiner
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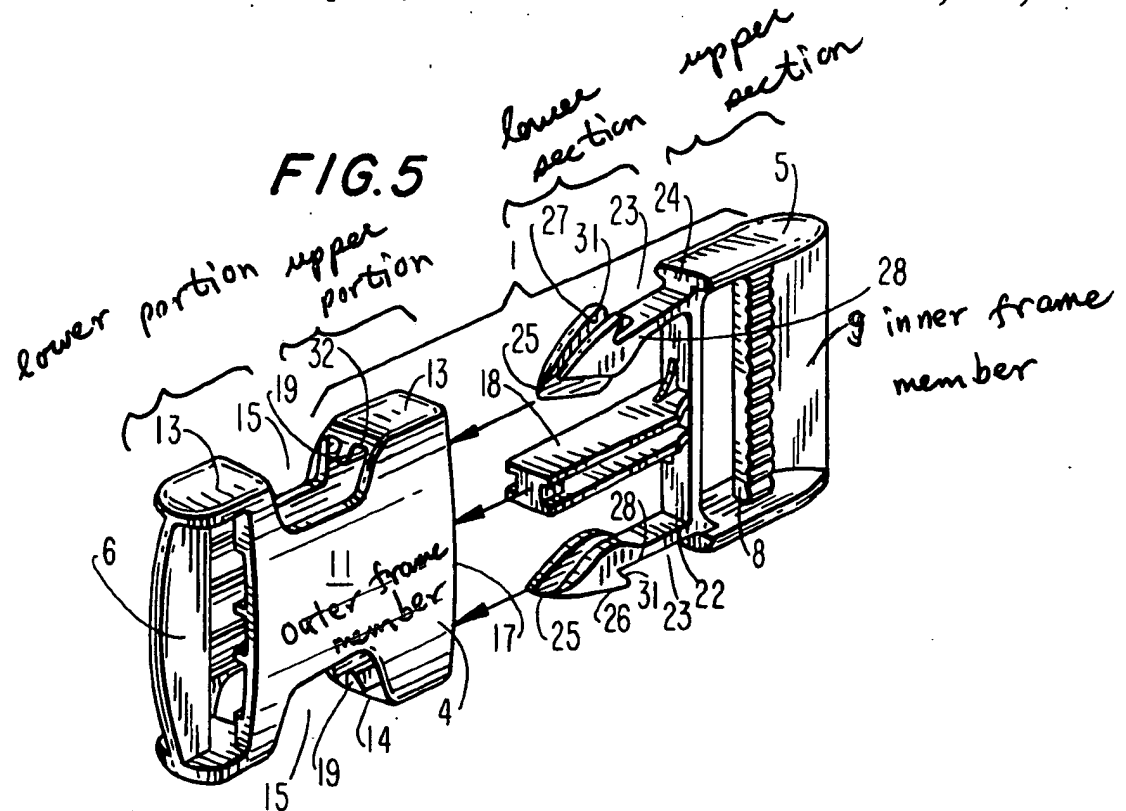


FIG. 7

